

In the Matter of Merchant Mariner's Document No. Z-845092 and all
other Seaman Documents
Issued to: Henry Doyle

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1341

Henry Doyle

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 11 January 1962, an Examiner of the United States Coast Guard at San Francisco, California suspended Appellant's seaman documents for one month upon finding him guilty of misconduct. The specification found proved alleges that while serving as second cook and baker on the United States SS SANTA MARIANA under authority of the document above described, on 23 December 1961, Appellant wrongfully failed to perform his routine duties between 0600 and 1800 while the ship was in a foreign port.

At the hearing, Appellant was represented by counsel. Appellant entered a plea of guilty to the charge and above specification. Two other specifications were found not proved and dismissed after pleas of not guilty.

Appellant did not testify as to what he did on 23 December but he did state that it was one of his duties to prepare breakfast and that all the steward department personnel, except the two day workers, were required to work from 0600 to 0930, 1030 to 1300, and 1600 to 1800.

On appeal, Appellant requests consideration because he was fined two days' pay (\$35.64) for this offense and since he had been given permission by the chief steward to be absent from duty during the breakfast hours on this date. Appellant contends that he forgot to mention these matters at the hearing because he was preoccupied with the defense against the other two specifications.

OPINION

Evidence submitted on appeal is not acceptable to refute the facts found proved by the Examiner on the basis of a plea of guilty or evidence presented at the hearing. Appellant was represented by a lawyer to look out for the best interests of his client. Hence,

Appellant's claim that he had permission to be absent during the breakfast hours is rejected since it is inconsistent with his plea of guilty to failing to perform his routine duties between 0600 and 1800 on 23 December 1961.

The loss of two days' pay for offenses of this type is not unusual and it does not affect the action taken herein since this offense was a breach of the Shipping Articles which deprived the ship of Appellant's services on this date.

ORDER

The order of the Examiner dated at San Francisco, California, on 11 January 1962, is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 13th day of September 1962.